

Testimony of Jose Antonio Ortega before the Africa, Global Human Rights, and International Operations

Representative of His Eminence Juan Sandoval Ingiguez
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On May 24th 1993, in the airport of Guadalajara, Jalisco, Mexico, Cardinal Juan Jesús Posadas Ocampo, his chauffeur Pedro Pérez Hernández, Martín Alejandro Aceves Rivas, Juan Manuel Vega Rodríguez, Francisca Rodríguez Cabrera, Ramón Flowers and José Rosario Beltrán Medina were murdered at approximately 15:45 by firearm.

The event provoked indignation in Mexico and all over the world.

More than 12 years have elapsed since the facts and the investigation accomplished by the Attorney General's Office of Mexico has so far not been satisfactory for the Mexican society. Instead, a feeling of concern for the complete clarification of the facts and for a fair trial of the people involved in the murder remains in the nation.

The Attorney General's Office of Mexico has handled various hypotheses which have been changed every time that the community has demanded the clarification of the facts. These hypotheses, which have in fact been forwarded to conceal rather than reveal the truth of the facts, are the following:

- The first hypothesis was that Cardinal POSADAS died in a crossfire, that is, his car was caught the middle of two drug trafficking gangs firing at each other;
- Another hypothesis was that Cardinal POSADAS was murdered after being coincidentally mistaken for drug lord JOAQUÍN GUZMÁN LOERA;
- The third one was that Cardinal POSADAS was again coincidentally mistaken for drug lord JOAQUÍN GUZMÁN LOERA aka "El Chapo Guzmán"'s bodyguard;
- The fourth hypothesis was yet again that the Cardinal's car was coincidentally mistaken by the murderers for El Chapo Guzmán's car;
- The last hypothesis was described by the prosecutor's office as follows: "A circumstantial homicide due to chaos and confusion generated by a confrontation between drug trafficking bands".

These hypotheses have been changed each time new data or elements appeared in the preliminary investigation, so previous hypotheses have been discarded in turn. Nevertheless, we have not perceived any serious or resolute effort to find the truth about who murdered Cardinal JUAN JESÚS POSADAS OCAMPO as far as previous Prosecutors have been concerned.

Immediately after the facts the Attorney General of Mexico, Jorge Carpizo McGregor, appeared before the media and provided a careful explanation about what had happened in the airport. He stated that two rival drug trafficking gangs commanded respectively by the Arellano Félix brothers and by "El Chapo Guzmán" had engaged in a crossfire in the airport and that the Cardinal and six other persons had been shot and killed. He also affirmed that an important evidence of this conclusion had been the statement by Jesús Alberto Bayardo Robles a.k.a. "El Gori", arrested afterwards and who had declared under the influence of drugs, "what facilitated his spontaneous confession."

The intention of the murderers was not only to destroy Cardinal POSADAS physically but also morally, since they intended to involve him in drug trafficking.

Jesús Alberto Bayardo Robles has been imprisoned in this country since 1996, as the Mexican Government handed him to the American Department of Justice so that could collaborate with his testimony against San Diego Logan Heights drug traffickers. In spite of the fact that he did collaborate, he has not been returned to the Mexican authorities, so his trial in Mexico is still pending. This is why our first petition is for the return of Jesús Alberto Bayardo Robles to Mexico, so he can declare and be tried there. It is deeply paradoxical that, although being the first person arrested on the very same day of the facts, his trial has not been given due course in Mexico. As far as it is known, his stay in the United States is only related to his role as a witness, since he has no charges pending in this country, so in fact he is presently being held in prison due to offenses committed in Mexico.

Doctor Mario Rivas Souza, forensic physician of the State of Jalisco, expressed his dissent with Attorney General Carpizo's thesis, warning that the shots received by Cardinal POSADAS were shot directly and at very close range.

Cardinal Juan Jesús Posadas Ocampo received 14 impacts, while his chauffeur Pedro Pérez Hernández received 10. The vehicle in which both arrived to the airport and where they were murdered had more than 52 shots carried out at a distance of less than a meter or three feet.

The investigation accomplished after the facts by the General Prosecutor's office of Mexico and by the General Prosecutor's office of the State of Jalisco was hurried, deficient, manipulated and guided from the beginning to provide evidence on the thesis of confusion.

We are witnessing a real state crime, since there has been concealment and serious defects in the investigation, as well as irregularities in the process. In addition to that, there exist groups of power in complicity with the murderers, groups that continue acting so that these facts remain unpunished and the truth never reaches the public light.

The hypothesis of the crossfire that the General Prosecutor's office of Mexico wanted to impose was immediately discarded by the forensic doctors of the State of Jalisco, who led by the 40-year old professional experience of doctor Mario Rivas Souza, expressed their disagreement, warning that the 14 shots received by the Cardinal POSADAS were shot directly and at close range, even leaving a stain of gunpowder on the Cardinal's chin due to the short distance of the fire. These statements were disclosed after having observed and analyzed the Cardinal's body on the day of the crime.

In 1999 the General Prosecutor's office of Mexico and the Government of the state of Jalisco concluded, after analyzing all the evidence, that the attack against Cardinal Posadas Ocampo was indeed direct and at very short distance, as well as that his car was not caught in the middle of two groups firing at each other, thus rejecting the hypothesis that had been held for six years.

The second hypotheses handled by the General Prosecutor's office of Mexico was the "confusion hypothesis", that is, that the Cardinal had been mistaken for "El Chapo Guzmán" or his bodyguard.

This confusion between "El Chapo Guzmán" and Cardinal Posadas Ocampo was also quickly rejected. On May 24th 1999, the General Prosecutor's office of Mexico and the Government of the state of Jalisco, after analyzing the tests of the proceedings concluded on the following: "according to the evidence provided during the investigation, the hypothesis of the confusion of persons is legally unsustainable; Cardinal Juan Jesús Posadas Ocampo could not possibly be confused with drug lord Joaquín Guzmán Loera, known as "El Chapo Guzmán".

It is besides duly sustained that in fact Ramón Arellano Félix and several other hit men and gunmen arrived to Guadalajara from Tijuana in order to murder "El Chapo Guzmán."

Various testimonies state that the mentioned band unsuccessfully sought "El Chapo Guzmán" for five days in the city of Guadalajara. On May 24th 1993 these gunmen were ordered to buy plane tickets to return to Tijuana, since they had been unable to find their target. These tickets were purchased to return to Tijuana in Aeroméxico flight 110 at 16:00 of the same day.

The case record includes evidence and testimonials that prove that when Ramón Arellano's gunmen arrived at the airport they were not carrying their weapons, since they had already left them in secure fortified houses used by drug dealers in the city.

These gunmen, hired by Ramón Arellano, arrived at the airport, checked in, approached the plane and came back to Tijuana, except for Jesús Alberto Bayardo Robles, who was not allowed to board the plane on the grounds that he was intoxicated.

The shots in the parking lot that murdered the Cardinal and the other five persons started when Ramón Arellano's gunmen were divided between the plane and the shuttle from the terminal to the plane, while Bayardo Robles remained under the supervision of Aeroméxico ground crew.

The evidence provided strength to the statements made by the gunmen, which agreed with the statements made by the ground crew of Aeroméxico and the air crew of the flight 110 to Tijuana.

In the time that elapsed between the moment when Ramón Arellano's gunmen arrived at the airport on this day and the moment when they boarded their plane (allowing for time for them to park their cars, check in themselves and their luggage) no confrontation of any kind took place in the parking lot or the terminal of the airport.

Aeroméxico flight 110, which was to be boarded by Ramón Arellano's gunmen in order to travel to Tijuana, had the departure time set at 16:00 hours. On the other hand, Aerolitoral flight to Puerto Vallarta, which Joaquín Guzmán Loera was going to board, had its departure time set for later than 16:00.

Some of "El Chapo Guzmán"'s bodyguards and gunmen arrived before him at the airport to check in themselves and their baggage.

In spite of the fact that both Ramón Arellano Félix's and "El Chapo Guzmán"'s gunmen were at the airport at the same time, there was not any confrontation before the arrival of Cardinal Posadas Ocampo. In fact, it is duly sustained by statements and expert testimonies that "El Chapo Guzmán" and his gunmen did not fire their weapons in the airport of Guadalajara on the day of the event.

General Jesús Gutiérrez Rebollo, (chief of the Fifth Military Region at the time and currently in prison), declared in the Federal Prison La Palma that in order to find the Cardinal's murderers it is necessary to investigate who had summoned the drug trafficking bands at the airport of Guadalajara on the very same day and at the same time for them to start a shoot-out and to have in the middle of this crossfire a third group whose aim would be to execute Cardinal Posadas.

He also declared that after the facts and in the middle of the reigning confusion, President Salinas President ordered him to take control of the situation in his hands and to 'arrange things'. He affirmed that "in my personal opinion I did not like the famous "Nintendo"¹; the first thing I thought was that if it was going to be changed, it was necessary to give the versions or the possibilities that could have existed in this attack..."

¹ ¹ The "Nintendo" refers to an animated computer presentation used by the Federal Prosecutor in order to recreate the events happened at the airport according to the wrong hypothesis of a crossfire between rival gangs and the arrival of Cardinal Posadas' car in the middle of the shoot-out, which allegedly provoked his incidental death.

Captain Horacio Montenegro Ortiz (currently serving sentence in the federal prison of La Palma and personal assistant to General Jesús Gutiérrez Rebollo) declared that "following the National Defense Secretary's orders, in direct agreement with the then Attorney General of Mexico Jorge Carpizo, we intervened in a more direct form, including a presidential order; but after approximately 25 days we withdrew from the investigations."²

From the first day of the investigation there were numerous irregularities within the preliminary investigation, and none of the authorities involved was concerned about investigating about the person or persons who committed them and why, in spite of the evidence included in the process that proved that these irregularities occurred. Neither was the investigating authority (the Public Ministry) interested in knowing the reason why these irregularities were committed, therefore this lack of investigation encouraged the impunity of their authors. I would like to highlight some of these irregularities in order to show all of this lack of interest and action by the authorities:

1. – On the day of the murders, immediately after they took place, the pectoral cross that Cardinal Juan Jesús Posadas Ocampo was wearing at the moment of his death was stolen; to date the Public Ministry has not undertaken any investigation to determine who and why such cross was stolen.

2. – On the same day different authorities inappropriately collected evidence at the scene of the crime, such as cartridges, bullets, plates and others; they also seized the entry tickets of the vehicles parked inside the parking of the airport of Guadalajara, exactly where Cardinal Posadas and his chauffeur Pedro Pérez Hernández were executed. This made impossible to determine when the raid that would eventually conclude with the assassination of Cardinal Posadas began, since after the removal of the tickets it was impossible to know the times of arrival of all the vehicles that carried weapons, ammunitions, military uniforms, General Prosecutor's office uniforms, communication devices, scanners, cellular telephones and others. To date the Public Ministry has not undertaken any investigation about who stole the entry tickets of the parking and why.

3. – On January 2nd 1995 the process was purged by the Federal Public Ministry agent ERICK ROBERTO GÓMEZ RODRÍGUEZ. According to the evidence found in the preliminary investigation, such purge was conducted as follows: the preliminary investigation 1132/93, in five volumes, provided by Lawyer ROMÁN IBARRA ENCISO, Chief of the First Board of Preliminary Investigations depending on the General Prosecutor's office in the Jalisco Delegation, was deprived of some of its contents until being reduced to only three volumes. The reason mentioned was that "by virtue of the fact that it contains repeated interventions and that it

² This means that the Mexican Army illegally took over the case, exceeding its jurisdiction, when it arrested and took the statements of the suspects allegedly involved. Afterwards these suspects were delivered to the judicial authorities alongside their records already prepared.

doesn't follow a chronological order; the final version of the case only occupies three volumes distributed as follows: Volume I 398 folios, Volume II 651 folios, Volume III 261 folios." To date it is unknown which of the actions undertaken by the authorities were erased or where these actions are to be found if any possible check is performed to corroborate that in fact they were not unduly left out of the Preliminary Investigation. The investigation accomplished by the Public Ministry of the Federation determined that this action (the purge of the process) could be considered a case of criminal conduct, but even though it recognized that such offenses were committed, it declared that they had expired and barred by statute of limitations. A judicial procedure (Consulta del No Ejercicio de la Acción Penal, Inquiry against Criminal Action) is underway, preventing access to such investigation in spite of the fact that the result affects the investigation of the homicide of Cardinal Juan Jesús Posadas Ocampo, his chauffeur Pedro Pérez Hernández and five other persons.

4. – Irregularities committed in the investigation during Attorney General of Mexico Jorge Carpizo's term in office, as well as another extremely serious wrongdoing: he didn't undertake any action in order to arrest drug lord Ramón Arellano Félix (who was at the time wanted by the authorities) when he obtained information about the drug trafficker being in the Apostolic Nunciature in December 1993. This information was provided by the very President Carlos Salinas de Gortari, who had received it in turn from Nuncio Girolamo Prigione. Twenty-one Representatives of the State Congress of Jalisco filed the corresponding charges against the former Attorney General before the Attorney General's Office of Mexico.

The Attorney General's Office of Mexico resolved to close the proceedings on these charges in spite of the fact that it recognized that offenses against the Justice Administration had been committed, since it considered that the time for procedures had already expired (although the condition for limitation of power to prosecute applicable in such cases must not be pronounced by the Attorney General's Office of Mexico, that is to say, the Public Ministry, but by the judge intervening in the case). A Federal Penal Judge of Protection (Juez Penal Federal de Amparo) conceded an "amparo" (guarantee of protection against the action of law) against the closure, ordering the Attorney General's Office to go forward with the investigation. After a declaration by former president Carlos Salinas de Gortari, the then Attorney General Jorge Carpizo appealed for review. In February 2006, as another action among the maneuvers to block the investigation, a Collegiate Court revoked the guarantee of protection without further inquiry, arguing that the Congress Representatives could not file charges against the closure of the investigation on the Attorney General's Office behavior, since they didn't hold any direct legal interest in the case.

During the 12 years since the crime was committed, the Attorney General's Office of the State of Jalisco pressed criminal charges against 51 persons on charges of homicide and conspiracy; to date there are 14 persons under proceedings before a common jurisdiction Criminal Judge of Guadalajara, Jalisco. In spite of the fact that the Judge ruled against them holding them guilty for the homicide of Cardinal

Posadas, his chauffeur Pedro Pérez Hernández and 5 other persons, the Supreme Court of the State of Jalisco resolved to repeal such ruling in February 2006 and to return the proceedings to the Judge, on grounds that countless serious irregularities had been found in the investigation. As a result of all these actions today, after almost 13 years since the homicide, there is not a single person convicted of the homicide of Cardinal Posadas.

The intervention of the undersigned, José Antonio Ortega and Federal Congressman Fernando Guzmán, as coplaintiffs cooperating with the Public Ministry, entitle us to legal personality attested in the proceedings, therefore we enjoy access to such proceedings, are able to provide evidence and participate in the presentation of other evidence pursuant to Mexican Law.

In the second semester of 2001 and the first months of 2002, the investigation made considerable progress thanks to the impulse given by Under General Attorney María de la Luz Lima Malvado. In the course of the investigation we found the originals of the logbooks of the official planes of the Attorney General's Office of Mexico that flew between Mexico City and Guadalajara in the day of the homicide. According to what we found, on this day three different airplanes flew to Guadalajara in order to investigate the homicide BEFORE it was committed, according to the official documents attached to the investigation.

For instance, according to its logbook, the plane known as XCPGR, manned by military pilots and allocated to Attorney General Carpizo, arrived in Guadalajara an hour before the homicide took place and returned to Mexico hardly 20 minutes before, returning again afterwards with all the personnel assigned to investigate the facts.

This findings encouraged former Attorney General Rafael Macedo de la Concha to begin a persecution against Cardinal Juan Sandoval and us with the collaboration of former Attorney General Jorge Carpizo (First Attorney General in charge of the case), without the necessary legal elements required by law. Jorge Carpizo filed against us an accusation consisting of a 26-page anonymous and unsigned document that included accusations against Cardinal Posadas, Cardinal Sandoval, the Pope Paul VI and the Latin American Episcopal Conference for links with drug trafficking and for receiving money from Colombian drug lord Pablo Escobar and other drug lords.

We were investigated during 8 months and the final resolution included evidence to the fact that there were no such links with the drug trade, money laundering or any other illicit activity, thus exonerating us. Still, Jorge Carpizo's and General Macedo de la Concha's intention was to interrupt the investigation in the Posadas case and to divert the public opinion's attention.

The current Attorney General Daniel Cabeza de Vaca Hernández is an honest man without any link to the mafias of organized crime. He intends to continue with the investigation, so he has already sent two petitions to the Department of Justice of

the United States for the authorization to interrogate Juan García Ábrego and Everardo Arturo Páez Martínez a.k.a. Kitty Páez.

It is important to emphasize that the most probable reason why Cardinal Posadas was murdered hints to the information in his hands about prostitution and drug trafficking syndicates that included in their payrolls some high-profile politicians of our country, Mexico. The Cardinal would have then been able to pass this information to the Vatican or to other international instances.

Cardinal Posadas tried indeed to make President Carlos Salinas de Gortari intervene in this matter. In the days before his homicide the Cardinal was followed, his telephones were intercepted, there was surveillance (or stalking) outside his house and he himself was subjected to a severe condition of stress inflicted by the same people who would eventually murder him.

All of this provides further importance to the statement by JUAN GARCÍA ÁBREGO, who is currently imprisoned in the high security prison Centennial Detention Facility, in Rate City, Colorado, since at the time of the crime he was the leader of the Gulf Cartel and enjoyed protection provided by some Mexican authorities and politicians. There are testimonies in the proceedings where it is clearly stated that he knows indeed who ordered and executed the murder of Cardinal POSADAS and the reasons why this homicide was committed.

EVERARDO ARTURO PÁEZ MARTÍNEZ, alias "Kitty Páez" has in turn made a statement before the American authorities about the homicide of Cardinal Posadas Ocampo. Among other things, he declared that the Arellano Félix brothers paid US\$10 million to Rodolfo León Aragón after the homicide. Rodolfo León was the General Director of the Federal Judicial Police at the time of the murder, and there exist other testimonies stating the fact that he was present at the time of the assassination in the airport of Guadalajara, personally directing the operations for the execution of the Cardinal. Other testimonies attest to the fact that Rodolfo León Aragón was the person who summoned Ramón Arellano Félix to be present at the airport on the day of the crime.

There are persons belonging to the drug trafficking rings encroached in some law-enforcing agencies of our country. They participated in one way or another in the facts, either directly or by concealing the crime, and they straightforwardly continue participating in organized crime from their positions in some instances of power, thus damaging our country in the most serious way. It is precisely these people who could be damaged the most by the testimonies accusing or involving them that may be obtained from witnesses currently being held in the United States.

We consider that these testimonies can offer new investigation leads related to the ones already included in the proceedings. We are also convinced that, although Attorney General Daniel Cabeza de Vaca is already tremendously busy with all the crime problems that afflict our country, such as drug trafficking, drug retail,

kidnappings and all other organized crime operations, his participation and the involvement of staff of the Attorney General's Office, the US Authorities and law enforcement agencies and our own collaboration as coplaintiffs cooperating with the Fiscal can lead to lowering impunity in our country and providing our people with hope that Mexican powers can, with the cooperation of the US authorities, enforce the law on any offenders.

During the almost 13 years of the investigation we have received the support of all the American cardinals, who have sent letters requesting the clarification of the facts to the previous President Ernesto Zedillo Ponce de León and to the current President Vicente Fox Quesada.

Some Latin American Cardinals have as well supported us in this task, and even the Pope Juan Pablo II was interested and informed on the progresses of the investigation. He also took diplomatic steps by means of the Secretariat of the State of the Vatican before the Mexican government to request the clarification of the facts.

The Mexican Episcopal Conference has also held meetings with the Mexican presidents and it has sent five different letters to President Fox alone asking for the investigation to continue, in order that it can eventually offer the truth of the facts to the Mexican people.

The Mexican, American and World Catholic Churches, as well as the people of Mexico, have a great interest for the truth to be finally revealed, since this would contribute to the strengthening of the credibility of the institutions in Mexico. Otherwise, such confidence would be weakened. If a Prince of the Church is deprived of his life and the real criminals are not found, thus letting impunity prevail in spite of all the pressure exerted on our authorities from many different instances, what could ordinary Mexicans who daily suffer criminal activities expect?

We have appealed to the Inter-American Commission of Human Rights, asking for some precautionary measures when General Rafael Macedo de la Concha prosecuted us, and informing this agency about all the wrongdoings existing in the proceedings of the homicide of Cardinal Juan Jesús Posadas Ocampo. Nevertheless, we are aware of the fact that at this time the IACHR cannot intervene in the case, since we have not yet appealed to all the possible instances in the national level. On the other hand, we wanted to inform this international organism on the legal action and its background just in case we had to appeal to it in the future.

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